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2 THE COURT: Mrs. Fiore, any redirect?

3 MRS. FIORE: Yes.

4 REDIRECT EXAMINAITON BY MRS. FIORE:

5 Q In your opinion, what would a more  
6 thorough investigation entail by a structural  
7 engineer?

8 A A more detailed measurement of the  
9 wall, they could go so far as doing investigation  
10 of the soil behind the wall.

11 Q What does investigation of the soil  
12 show?

13 A That would show what type of soils  
14 are there, it might be an indication as to why tie  
15 backs were put in, if it was sandy soil or  
16 something, that would lead to an unstable wall,  
17 that would give some explanation to the tie back  
18 and also when you get a structural engineer, you  
19 are just getting somebody who is more experienced  
20 with this type of thing, with retaining walls in  
21 particular, not that I'm not experienced with them  
22 but a structural engineer specializes it. He is a  
23 specialist, he would have a longer history with  
24 this type of situation maybe he has seen something  
25 like this before.

1  
2 that are present on the concrete block portion,  
3 were they rusted anywhere?

4 A There was some rust on them but not  
5 severe like the lower tie backs.

6 Q In comparison to the ones below,  
7 they were better?

8 A Yes.

9 Q But there was some indication of  
10 rust; is that correct?

11 A Yes.

12 Q In your experience, if there has  
13 been a condition of rust, is it fair to say that  
14 those tie backs have been on the wall for a length  
15 of time, a short amount of time?

16 MRS. MULLINS: I object, Your Honor  
17 it is a leading question.

18 THE COURT: Overruled.

19 A I could not say.

20 Q If there is rust on a tie back, in  
21 your experience, is it fair to say that it's been  
22 on there for more than a year?

23 A Sure, it's possible there was some  
24 surface rust on it, it could have occurred very  
25 quickly or it could have been like that for a long





1 on to the next question.

2 Q Did you observe vehicles parked on  
3 the--

4 A No.

5 Q Property at that time?

6 A No.

7 Q How many of the stoppers, are they  
8 call?

9 A Wheel stops.

10 Q Okay, wheel stops?

11 A I don't recall how many.

12 Q More than one?

13 A Yes.

14 MRS. FIORE: I have nothing further  
15 at this time.

16 THE COURT: Call your next witness.

17 MRS. FIORE: The People call Mr.  
18 Greenwald.

19 THE COURT: I will swear you in.

20 B L A I N E G R E E N W A L D, a witness herein,  
21 having been first duly sworn by the Court, was  
22 examined and testified as follows:

23 EXAMINATION BY FIORE:

24 MRS. MULLINS: I just ask if the  
25 town prosecutor could give the Court an

1 indication of an order of protection was  
2 to this witness, since we know now that,  
3 apparently, this witness made a complainant  
4 to the building department and it was  
5 followed up in some fashion by the building  
6 department.

7 So, I would just like to just know  
8 what the relevance and probative value of  
9 the testimony in general is at the outset.

10 THE COURT: I don't think that is  
11 necessary at this time, please take a seat  
12 and proceed with the questioning.

13 MRS. MULLINS: Thank you.

14 Q Good morning, where do you reside?

15 A 2 Lafayette road.

16 Q Does your property abut another  
17 property?

18 A Yes.

19 Q Do you know the address of that  
20 property?

21 A 5 Huguenot Drive.

22 Q Is there a wall that separates your  
23 two properties?

24 A Yes.

25 Q Have you had occasion to observe

1 that wall?

2 A Yes.

3 Q Could you describe for the Court  
4 your visual observations of the wall?

5 A The wall is a massive structure I  
6 would guess ranges maybe ten to twenty feet at  
7 different levels across the width of the backyard.

8 Q Ten to twenty feet in height?

9 A Yes, high that is just an estimate  
10 and there are two parts to the wall, a stone part  
11 that goes up probably, I don't know, maybe eight  
12 feet and then a second part that looks like it was  
13 built on top of that part made of cinder blocks and  
14 that part of the wall has-- it's obvious if you  
15 look at it, that it moved forward because there is  
16 a gap between --

17 MRS. MULLINS: Move to strike, Your  
18 Honor.

19 THE COURT: Overruled with one  
20 notation, that this witness is not an  
21 expert. I'm not crediting Mr. Greenwald's  
22 conclusion because he is not an expert but  
23 I can credit his eyewitness observations.

24 MRS. FIORE: Thank you.

25 Q Did you have an occasion to contact

1 any local town officials made any  
2 observations of this wall?

3 A Yes.

4 Q Who did you contact?

5 A Well, first we contacted-- well,  
6 actually first Mr. Rotenberg contacted us in April.

7 Q April of 2006?

8 A Yes, in order to request permission  
9 to have a mason come onto our property, to my  
10 understanding, cosmetically cover the wall. We  
11 objected to that and both my wife and I had  
12 discussions with Mr. Rotenberg that before you  
13 bring an in mason to just cover the cosmetic  
14 elements of the wall, shouldn't we have a  
15 structural engineer to come and look at the wall  
16 and this was in the wake of that collapse of the  
17 wall on the Henry Hudson Parkway, so it was  
18 highlighted as a concern to us.

19 We then learned that Mr. Rotenberg  
20 was selling his house. So when I spoke with him on  
21 the phone, I said shouldn't we have a structural  
22 engineer come to evaluate the safety of the wall  
23 both for you, the potential buyers and us and our  
24 family and Mr. Rotenberg indicated that he had no  
25 intention of bringing a structural engineer and

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I was baffled by the attitude about it because it seemed like it was appropriate to bring somebody who was an expert and not just cover it up.

After that, it was that with a backdrop that led us to communicate with the building department about, look we don't want this wall to be just cosmetically covered up, shouldn't we have an engineer come.

Then, nothing really happened and we probably had a couple other phone calls to Mr. Carpaneto but nothing really happened in terms of any action and then finally we ended up getting a name of an engineer whose name was Benny Salanitro and we ended up asking him to come and do an analysis, that analysis included both --

MRS. MULLINS: Objection.

THE COURT: Sustained.

Q            Did you retain the service of an  
engineer?

A Yes.

Q Did that engineer come to the property to inspect the wall to your knowledge?

A Yes.

2 A He provided the town with a report  
3 and I just--

4 THE COURT: No, answer the question  
5 and wait for the next question.

6 Q Have you noticed any change in the  
7 wall regarding the condition that caused your  
8 concern in the first place?

9 A No, the mason came and did stuff on  
10 his side and maybe at the neighbor to the right  
11 side but not on our side because we said, look we  
12 don't want anybody coming to just cover up the  
13 wall.

14 Q There has been no correction for  
15 the condition that caused you to call the building  
16 department in the first place?

17 A Not to my knowledge, no.

18 MRS. FIORE: I have nothing further.

19 THE COURT: Cross examination?

20 MRS. MULLINS: Yes.

21 CROSS EXAMINATION BY MRS. MULLINS:

22 Q Your testimony is that nothing was  
23 done to the wall on your side; is that right?

24 A Yes.

25 Q And is it true that you denied

1  
2 A Just Mr. Rotenberg statement of  
3 having a mason come --

4 Q No, my question is, did you deny  
5 access to the property, to your side of the wall?

6 A To Mr. Rotenberg's request to have  
7 a mason come onto the property.

8 Q Maybe my question is not clear, did  
9 there come a time that Mr. Rotenberg's contractor  
10 came to your premises to do work on on your side of  
11 wall?

12 A I'm not aware of it.

13 Q You are not aware of it?

14 A No, my wife may be aware of it but  
15 she did not communicate that with me, other than  
16 Mr. Rotenberg ringing our doorbell and I'm not  
17 aware of anybody else coming because we basically  
18 explicitly in April denied to Mr. Rotenberg the  
19 ability to have a mason come as I keep saying  
20 because we did not want the wall just covered up.

21 Q Is it true that initially you gave  
22 your permission to Mr. Rotenberg to have work done  
23 on the wall?

24 A If that happened-- you mean about  
25 the mason coming?



1  
2 Mr. Rotenberg.

3 Q Did you send a copy of that letter  
4 to the building department?

5 A Yes, and it's in the building  
6 department's file.

7 Q When did you send that letter to  
8 Mr. Rotenberg and to the building department?

9 A April 14, 2006.

10 Q Was that before or after you had  
11 any conversation with Mr. Rotenberg?

12 A That was immediately shortly after  
13 I had my conversation with him because I wanted to  
14 communicate to him that we held him responsible for  
15 any damages associated should the wall fail and  
16 that it was a letter of consolatory tone to say  
17 shouldn't we work to have this evaluated because it  
18 would be dangerous for him and anybody purchasing  
19 it and us and that it seemed reasonable and that  
20 the conclusion of letter was, let's work amicably  
21 to try to get a good evaluation.

22 Q When you wrote that letter, upon  
23 what facts did you come to the conclusion that the  
24 wall was in a dangerous condition?

25 A Looking at it.

A Yes and also the fact that Mr.

3 Carpaneto, I believe, had said that there was an  
4 awareness of this wall over resent past because of  
5 the fact that the town had addressed-- I'm sorry,  
6 what happened is when it really, really rains on  
7 Huguenot Street, and this relevant --

MRS. MULLINS: I move to strike --

9                   A           It's relevant to answer your  
10                   question.

13 A The thing is --

14 THE COURT: No, don't say anything,  
15 that could come out in some other question.

16 Q My question is, when you wrote the  
17 letter in April and I think you said it was April  
18 14th of 2006, what facts did you have to base your  
19 opinion or your conclusion that the wall was  
20 dangerous?

21                   A        Two elements, one, my own  
22                    observations of the wall. It is actually three  
23                    elements, my own observation that it looked like  
24                    there is a problem because the top part overhangs  
25                    the bottom part.

12 So, when the town attempted to fix  
13 the curbs had commented that the ought to be looked  
14 at because it's obvious --

15 Q When was that.

16 A Maybe a year before.

17 Q Was it possible that was in the  
18 time period when you complained about the other  
19 neighbors work being done on 3 Huguenot Drive?

20 MRS. FIORE: Objection.

A I could answer that.

22 THE COURT: Overruled.

23 Q This time period that you are  
24 referring to that the town being aware of this run  
25 off issue, you said on the left side of the wall